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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RILEY JEROME WILLIAMS,

Plaintiff,

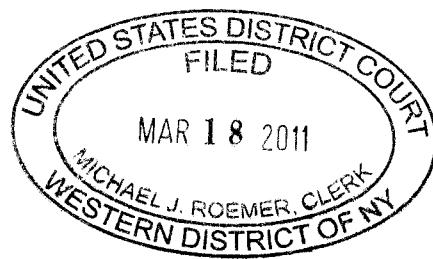
-v-

C.O. BANASZAK, C.O. E. HUTTON, R. KOBERECKI,
LIEUTENANT BANTZ, LT. W. MURRAY,
LT. R. BURIIKI, LT. BORAWASKI,

Defendants .

10-CV-0364Sc

ORDER



On August 25, 2010, the Court (Hon. David G. Larimer) granted plaintiff permission to proceed *in forma pauperis* and, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and 1915A(b), dismissed the "First Claim" set forth in the complaint (Docket No. 1, Complaint, Section 5A, First Claim, at 4-5) because it was duplicative of claims pled in at least three other actions filed in the Court¹ and which had settled in one such action, Williams v. Bunn, et al., 06-CV-0466Sc, and granted plaintiff leave to file an amended complaint with respect to the "Second Claim," (Complaint, Section 5A, Second Claim, at 5-6), which failed to set forth facts sufficient to allege a claim against the defendants whose names were set forth in the "Caption" and "Parties to the Action/Defendant's Information "

¹Williams v. Bunn, et al., 06-CV-0466Sc; Williams v. Lodestro, et al., 09-CV-0604Sc; and Williams v. Lodestro, et al., 09-CV-0640Sc. Those three actions alleged, at least in part, the same assault(s) alleged in the First Claim in this complaint--viz., an assault or use of excessive force on April 28, 2006 and/or June 4, 2007. Plaintiff has since filed a fourth action which again raises a claim based on an alleged assault on June 4, 2007. (Williams v. Lodestro, et al., 10-CV-0791Sc.

Sections of the complaint. (Docket No. 4, Decision and Order.) The Second Claim alleged only that “[e]ach and everyone of those had (assaulted me[])” (Complaint, Section 5A, Second Claim, at 5-6), and did not identify whom “everyone of those [individuals]” were although the Court presumed they were the defendants named in the Caption and Parties to this Action/Defendant’s Information Section of the complaint: C.O. Banaszak, C.O. E. Hutton, C.O. R. Kobielski, Lt. Bantz, Lt. W. Murray, Lt. R. Buricki, and Lt. Borawaski. (Docket No. 4, Decision and Order, at 1-2.) The Court cautioned plaintiff that his amended complaint must not include any claims based on an assault or assaults that allegedly occurred on April 28, 2006 and June 4, 2007.

Plaintiff filed an amended complaint which alleges that on March 26, 2010, he was assaulted by a the defendants named in the complaint, whom he claims are correctional officers and lieutenants at the Attica Correctional Facility. While plaintiff refers to the prior actions and assault(s) raised in the other actions, see n. 1, *supra*, he does not appear to be raising them again as separate claims in this action and, therefore, the only claim that will be considered in this action is a claim related to an assault that allegedly occurred on March 26, 2010 at Attica.

The Clerk of the Court is directed to cause the United States Marshal to serve copies of the Summons, Amended Complaint, and this Order and the Order, entered August 11, 2010 (Docket No. 4), upon

the named defendants without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor.

Pursuant to 42 U.S.C. § 1997e(g)(2), the defendants are directed to answer the amended complaint.

SO ORDERED.

S/ MICHAEL A. TELESCA

MICHAEL A. TELESCA
United States District Judge

Dated: March 17, 2011
Rochester, New York